



CALVERT COUNTY

BOARD OF APPEALS

The Calvert County Board of Appeals has scheduled the following cases for public hearing at the times listed below on **Thursday, March 5, 2020** in the Commissioners Hearing Room in the Calvert County Circuit Courthouse, located at 175 Main Street, Prince Frederick, Maryland. For additional information, please contact the Board of Appeals staff at (410) 535-2348 or (301) 855-1243, ext. 2335. Entire case files are available for review by contacting the Board of Appeals staff in the Department of Planning & Zoning.

Note: Part of the meeting may be closed to the public in accordance with Open Meetings Act procedures.

Cases Scheduled for 9:00 A.M.:

Prior to hearing testimony, The Board will consider the status of Case No. 19-3967 and Case No. 20-4021. Specifically, the Board will hear from the applicant and/or applicant's counsel as to whether Rule 5-101.A should apply.

The Board will then consider the pending motion to consolidate Case Nos. 19-3967, 20-4012, 20-4013, and 20-4021, and any oppositions thereto.

Dependent upon determination of the foregoing preliminary matters, the following cases may be heard:

Case No. 19-3967: The Spout Farm Association, Inc. and individual property owners Richard Spigler and Brian Ayres have applied for a decision on alleged errors by the Zoning Office in (1) denying permit approval for replacement of a community pier; (2) the Zoning Officer's determination that the building permit application was not "in-kind" replacement of an existing structure; (3) the Zoning Officer's determination that the existing community pier is non-conforming; and/or (4) the Zoning Officer's determination that the existing pier could not be replaced because removal of it to replace it would constitute intentional destruction of the pier. The subject property is known as the Open Space tract of the Spout Farm subdivision, 2730 Spout Lane, Lusby (Tax Map 42, Parcel 335) and is zoned Farm and Forest District/Limited Development Area 3 (FFD/LDA-3). [APPLICATION](#) **WITHDRAWN**

Case No. 20-4012: Timothy & Amy Dent, Patrick McGlohn, and Vankirk & Cynthia Fehr have applied for a Decision on Alleged Error made by the Zoning Officer, the Zoning Officer's designee and other administrative officials charged with the administration and enforcement of the Zoning Ordinance when approving Permit #COM2018-1427 on the basis that the permit to re-construct

a community pier should not have been approved and its approval is contrary to applicable law and the requirements of the Calvert County Zoning Ordinance in general and the requirements of Article 9 in particular. The subject property is located at 2730 Spout Lane, Lusby (Tax Map 42, Parcel 335) and is zoned Farm and Forest District and Limited Development Area 3 (FFD/LDA-3).

[APPLICATION](#) **PLANNING AND ZONING DECISION UPHELD 3-0**

Case No. 20-4013: Timothy & Amy Dent, Patrick McGlohn, and Vankirk & Cynthia Fehr have applied for a Decision on Alleged Error made by the Zoning Officer, the Zoning Officer's designee and other administrative officials charged with the administration and enforcement of the Zoning Ordinance when issuing Permit #COM2018-1427 on the basis that the permit to re-construct a community pier should not have been issued and its issuance is contrary to applicable law and the requirements of the Calvert County Zoning Ordinance in general and the requirements of Article 9 in particular. The subject property is located at 2730 Spout Lane, Lusby (Tax Map 42, Parcel 335) and is zoned Farm and Forest District and Limited Development Area 3 (FFD/LDA-3).

[APPLICATION](#) **PLANNING AND ZONING DECISION UPHELD 3-0**

Case No. 20-4021: Timothy & Amy Dent, Patrick McGlohn, and Vankirk & Cynthia Fehr have applied for a Decision on Alleged Error made by the Zoning Officer, the Zoning Officer's designee and other administrative officials charged with the administration and enforcement of the Zoning Ordinance when issuing Permit #RES2019-3690 on the basis that the permit to re-construct a private pier should not have been issued and its issuance is contrary to applicable law and the requirements of the Calvert County Zoning Ordinance in general and the requirements of Article 9 in particular. The subject property is located at 2745 Spout Lane, Lusby (Tax Map 42, Parcel 1, Lot 4) and is zoned Farm and Forest District, Wetlands District, and Limited Development Area 3 (FFD/WL/LDA-3).

[APPLICATION](#) **POSTPONED UNTIL MARCH 26, 2020 DUE TO TIME CONSTRAINTS**

**PRESIDING OFFICER'S WRITTEN STATEMENT FOR CLOSING A MEETING ("CLOSING STATEMENT")
UNDER THE OPEN MEETINGS ACT (General Provisions Article § 3-305)**

This form has two sides. Complete items 1 – 4:

1. Recorded vote to close the meeting: Date: **3/5/2020**; Time: **2:30 pm**; Location: **BOCC Hearing Room**;

Motion to close meeting made by: **Danny Baker**; Seconded by **John Ward**;

Members in favor: **All 3**; Opposed: **None**; Abstaining: **None**; Absent: **None**;

2. Statutory authority to close session (check all provisions that apply):

This meeting will be closed under General Provisions Art. § 3-305(b) only:

(1)___ "To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals"; (2)___ "To protect the privacy or reputation of individuals concerning a matter not related to public business"; (3)___ "To consider the acquisition of real property for a public purpose and matters directly related thereto"; (4)___ "To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State"; (5)___ "To consider the investment of public funds"; (6)___ "To consider the marketing of public securities"; (7) X "To consult with counsel to obtain legal advice"; (8)___ "To consult with staff, consultants, or other individuals about pending or potential litigation"; (9)___ "To conduct collective bargaining negotiations or consider matters that relate to the negotiations"; (10)___ "To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans"; (11)___ "To prepare, administer, or grade a scholastic, licensing, or qualifying examination"; (12)___ "To conduct or discuss an investigative proceeding on actual or possible criminal conduct"; (13)___ "To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter"; (14)___ "Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process."

Continued →

3. For each provision checked above, disclosure of the topic to be discussed and the public body's reason for discussing that topic in closed session.

Citation (insert # from above)	Topic	Reason for closed-session discussion of topic
§3-305(b) (7)	See attached memo.	
§3-305(b) ()		
§3-305(b) ()		
§3-305(b) ()		
§3-305(b) ()		

4. This statement is made by Susan Hance-Wells, Presiding Officer.

x *Susan Hance-Wells, Chair*

WORKSHEET FOR OPTIONAL USE IN CLOSED SESSION: INFORMATION THAT MUST BE DISCLOSED IN THE MINUTES OF THE NEXT OPEN MEETING

Time of closed

session: _____ Place: _____

Purpose(s): _____

Members who voted to meet in closed session: _____

Persons attending closed session: _____

Authority under § 3-305 for the closed session: _____

Topics actually discussed: _____

Actions taken: _____ Each recorded vote: _____

For a meeting recessed to perform an administrative function (§ 3-104): Time: _____

Place: _____ Persons present: _____ Subject matter

discussed: _____



OFFICE OF THE COUNTY ATTORNEY
INTEROFFICE MEMORANDUM

TO: File
FROM: Scarlett Oller, Board of Appeals Clerk
DATE: July 22, 2020
SUBJECT: March 5, 2020 Executive Session

The following is provided to supplement the forgoing Closed Session Statement for further transparency in local government:

- 1) Time of closed session: 2:30 p.m.
- 2) Place: County Commissioner's Meeting Room, Prince Frederick, MD.
- 3) Members who voted to meet in closed session: All three (3) Board of Appeals regular members.
- 4) Authority: §3-305(b)(7):
 - a) Purpose: To consult with counsel to obtain legal advice.
 - b) Persons attending closed session: All three (3) Board of Appeals regular members, the Clerk, and the Board's Attorney.
 - c) Topics actually discussed: Exclusion of irrelevant, repetitive, and/or unreliable evidence or testimony in accordance with Board of Appeals Rules of Procedure 4-101.D.
 - d) Action Taken: With the advice of their Attorney, the Board determined which testimony was irrelevant, repetitive, and/or unreliable and how best to keep the hearing focused on relevant issues.
- 5) Recessed from Executive Session at: 2:40 p.m.

*BoA
20-4012. 3-5-2020 Hearing*

**PRESIDING OFFICER'S WRITTEN STATEMENT FOR CLOSING A MEETING ("CLOSING STATEMENT")
UNDER THE OPEN MEETINGS ACT (General Provisions Article § 3-305)**

Instructions to presiding officer: The closing statement sets the agenda for the closed session by disclosing the topics that will be discussed, telling the public why the members are voting to exclude them from the discussion, and citing the statutory authority for closing the meeting. The closing statement must be available for public inspection at the time the meeting is closed and may not be changed later.

To meet in a closed session that is subject to the Act, the public body must first meet in an open session, after notice, and take steps to close that session. Make sure that the open session is attended by a member designated to receive open meetings training. If a designated member cannot attend, complete the Compliance Checklist.¹

This model form has two sides. In the open session, complete items 1 through 4 on this form or in any writing that gives that information. If someone pre-prepared the form for you, confirm that it reflects the public body's intended discussion and the reason(s) for closing the meeting. Also in the open session, conduct a recorded vote on a member's motion to close. In the closed session, it is helpful to use a copy of the closing statement as the agenda. If the public body might return to open session afterwards, be sure to tell the public that.

The public body must disclose the events of the closed session in its next open-session minutes. The worksheet that appears below item 4 provides a checklist of the required disclosures. The worksheet is not part of the closing statement.

1. **Recorded vote to close the meeting:** Date: 3/5/2020; Time: 2:30 PM; Location: BOA Hearing Room annex;
Motion to close meeting made by: D. Baker Seconded by J. Ward;
Members in favor: S. Hance-Wells, D. Baker, J. Ward; Opposed: none;
Abstaining: ~~one~~ one; Absent: ~~one~~ one.

2. **Statutory authority to close session (check all provisions that apply):**

This meeting will be closed under General Provisions Art. § 3-305(b) only:

(1)___ "To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals"; (2)___ "To protect the privacy or reputation of individuals concerning a matter not related to public business"; (3)___ "To consider the acquisition of real property for a public purpose and matters directly related thereto"; (4)___ "To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State"; (5)___ "To consider the investment of public funds"; (6)___ "To consider the marketing of public securities"; (7) ☒ "To consult with counsel to obtain legal advice"; (8)___ "To consult with staff, consultants, or other individuals about pending or potential litigation"; (9)___ "To conduct collective bargaining negotiations or consider matters that relate to the negotiations"; (10)___ "To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans"; (11)___ "To prepare, administer, or grade a scholastic, licensing, or qualifying

¹ http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/COMPLIANCE_CHECKLIST%20.pdf

examination”; (12)___ “To conduct or discuss an investigative proceeding on actual or possible criminal conduct”; (13)___ “To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter”; (14)___ “Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, *if* public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.”

3. For each provision checked above, disclosure of the topic to be discussed and the public body’s reason for discussing that topic in closed session.

Citation (insert # from above)	Topic <i>relevant info</i>	Reason for closed-session discussion of topic
§ 3-305(b) (7)	<i>Keeping hearing focused</i>	
§ 3-305(b) ()		
§ 3-305(b) ()		
§ 3-305(b) ()		
§ 3-305(b) ()		

4. This statement is made by Susan Dance-Wells, Presiding Officer.

WORKSHEET FOR OPTIONAL USE IN CLOSED SESSION: INFORMATION THAT MUST BE DISCLOSED IN THE MINUTES OF THE NEXT OPEN SESSION (§ 3-306)

Time of closed session: _____ Place: _____

Purpose(s): _____

Members who voted to meet in closed session: _____

Persons attending closed session: _____

Authority under § 3-305 for the closed session: _____

Topics actually discussed: _____

Actions taken: _____ Each recorded vote: _____

For a meeting recessed to perform an administrative function (§ 3-104): Time: _____

Place: _____ Persons present: _____ Subject matter

discussed: _____